IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

DAVID STEBBINS **PLAINTIFF**

VS. **CASE NO 11-1362**

MICROSOFT, INC. **DEFENDANTS**

SECOND MOTION FOR SANCTIONS OR
IN THE ALTERNATIVE FOR CLARIFICATION

NOTE ON MOTION CALENDAR: NOVEMBER 25, 2011

Comes now, *pro se* Plaintiff David Stebbins, who respectfully submits the following additional motion for sanctions (on top of the motion for sanctions previously filed), or in the alternative, for clarification as to why Defendant's actions do not warrant sanctions.

In subsection C of the "Factual Background" section of Defendant's Motion to Dismiss (Dkt. 16), Defendant draws a lot of attention to the cases which I have previously filed.

You know what? I admit it! I admit that I have filed a few lawsuits in my lifetime.

What I do not seem to get (and maybe this Court can finally give me an explanation that so many other Courts seem to be lacking on this issue) is why that means that my cases are automatically frivolous, as Defendant clearly seems to imply. Why else would Defendant draw so much attention to my previous filings?

Defendant's argument is frivolous because it raises an argument using evidence that in no way, shape, or form proves the argument. Just because I have *filed* a few cases does not mean that I have a history of filing frivolous lawsuits. It means I have a history of filing lawsuits.

How can Defendant honestly, truly justify, just on the *number* of cases I have filed, alone, that I am a vexatious litigant? How do they know that these suits did not all have merit?

Defendant has proven itself to be a hypocrite in many of its arguments in this case.

However, this is the kind of hypocrite that every defendant I have ever come into contact with seems to be. Defendant draws a lot of attention to my previous filings, when Defendant is just as guilty – perhaps even more so – as I am at "suing numerous people."

In fact, Defendant has been the primary plaintiff in sixty-five (65) cases in the United States District Court for the Western District of Washington, just in the past five years alone. See Exhibit A. Remember, these search results only apply to this Court; not the Supreme Court, not the United States Court of Appeals for the Ninth Circuit, not the Bankruptcy Court for this district, not even any state courts; just this one, single, solitary Court. As you can see, in this one court, Defendant has been a party in one hundred four (104) cases, just in the past five years alone (beginning with cases that were opened no earlier than Nov. 3, 2006).

Of these 104 cases, Defendant was the primary plaintiff in sixty-five of them. This does not even include cases in which Defendant was a plaintiff, but was not listed in the name of the case.

Yes, it is true, as Defendant states, that I have filed thirteen cases in my entire lifetime, spread out all over the federal courts (appeals do not count; appeals are just a part of the District Court cases from which the appeals are taken). However, just in the past five years alone, Defendant has filed five times as many cases in this one Court than I have filed in my entire lifetime over the entirety of the federal judiciary.

So, how does Defendant justify its argument that I have a history of filing "frivolous" lawsuits? If the number of suits that I have filed alone suffices to make me a vexatious litigant, why does the same not apply to Defendant? Because all of those claims have merit? Well, what about mine? We should look at Defendant's suits on a case-by-case basis, and not have one case influence any of the others in any way, shape, or form, other than maybe setting legal precedent,

but not extend that same benefit of the doubt to me? Shenanigans!

In arguing that this Court should hold me to a double standard, and hold me to higher levels of scrutiny than it holds Defendant and others similarly situated, Defendant is the one raising the frivolous argument.

In the event that this Court finds that Defendant should not be sanctioned for raising this baseless and ridiculous legal argument, I request clarification as to *why* consumers are only allowed a certain number of lawsuits per lifetime before courts look at them funny, but companies get a free pass? This explanation can come from either the Court, or the Defendant. Heck, I would be content if some obscure lawyer from Mississippi who was just monitoring this case for academic benefit (take the hint, Dougie) could contact me using the information provided in my signature to try and explain this to me.

I have asked numerous jurists, ranging from paralegals, to lawyers, to law professors, to judges in my area. Nobody seems to be able to give me an answer. It seems to be a lot like sovereign immunity... although the reasons for it have never been given, it's just sort of *there*. See *United States v. Lee*, 106 US 196 (1882). Maybe this Court or the Defendant can succeed where so many others have failed.

Wherefore, premises considered, I respectfully pray that the Defendant be sanctioned for raising a frivolous argument that in no way, shape, or form, even remotely reduces the merit of this case, or, in the alternative, it be explained to me *why* it reduces the merit of my case.

By *s/ David A. Stebbins*

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